

AMENDED IN ASSEMBLY JUNE 18, 2009

AMENDED IN SENATE MAY 6, 2009

AMENDED IN SENATE APRIL 21, 2009

AMENDED IN SENATE APRIL 1, 2009

SENATE BILL

No. 459

Introduced by Senator Wolk

February 26, 2009

An act to amend Section 6302.1 of, and to add Sections 6302.2, 6302.3, and 6302.4 to, the Public Resources Code, relating to tidelands and submerged lands.

LEGISLATIVE COUNSEL'S DIGEST

SB 459, as amended, Wolk. Tidelands and submerged lands: removal of vessels.

Existing law authorizes the State Lands Commission to remove from areas under its jurisdiction any vessel, boat, raft, or other similar watercraft that is left unattended and is moored, docked, or beached as to obstruct traffic or to create a hazard to other vessels or property, that poses critical and immediate danger to navigation or the public health, safety, or welfare, or that hinders navigation or creates a public nuisance.

This bill would revise those provisions to authorize the commission to remove those watercraft in those and similar conditions immediately and without notice. The bill would authorize the commission to remove and dispose of those watercraft and to remove and dispose from areas under its jurisdiction watercraft that have been placed on state lands without its permission if prior to removal the commission gives a 30-day notice by posting notice on the watercraft and notifying the owner and any lienholder, if known.

Existing law authorizes the commission, through appropriate action in the courts, to remove or destroy a vessel, boat, watercraft, or other similar obstruction that hinders navigation or otherwise creates a public nuisance in areas under the commission's jurisdiction.

This bill would, instead, provide that a hulk, derelict, wreck, or parts of a ship, vessel, or other watercraft sunk, beached, grounded, or floating and allowed to remain in an unseaworthy or dilapidated condition in areas under the commission's jurisdiction for a period longer than 30 days without its consent is abandoned property. The bill would establish procedures for the commission to sell, destroy, or otherwise dispose of this abandoned property. The bill would require that any proceeds from the sale of ~~abandoned~~ *this* property, less the commission's costs, be deposited into the General Fund.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6302.1 of the Public Resources Code is
2 amended to read:

3 6302.1. (a) (1) The commission may take immediate action,
4 without notice, to remove from areas under its jurisdiction a vessel,
5 boat, raft, or other similar watercraft that is left unattended and is
6 moored, docked, beached, or made fast to land in a position as to
7 obstruct the normal movement of traffic or in a condition as to
8 create a hazard to navigation, other vessels using a waterway, or
9 the property of another.

10 (2) The commission may take immediate action, without notice,
11 to remove from areas under its jurisdiction a vessel, boat, raft, or
12 other similar watercraft that poses a significant threat to the public
13 health, safety, or welfare or to sensitive habitat, wildlife, or water
14 quality, or that constitutes a public nuisance.

15 (3) After removal of the vessel, boat, raft, or other similar
16 watercraft pursuant to paragraph (1) or (2), the commission shall
17 mail a notice to the owner, if known, and any known lienholder,
18 that informs the owner and lienholder that the commission may
19 dispose of the vessel, boat, raft, or other similar watercraft pursuant
20 to Section 6302.3 if it remains unclaimed for 30 days.

21 (b) (1) The commission may remove from areas under its
22 jurisdiction a vessel, boat, raft, or other similar watercraft or a

buoy, anchor, mooring, or other ground tackle used to secure a vessel, boat, raft, or other similar watercraft that has been placed on state lands without its permission. Prior to removal of the vessel, boat, raft, or other similar watercraft or buoy, anchor, mooring, or other ground tackle, the commission shall give a 30-day notice by attaching it to the vessel, boat, raft, or other similar watercraft or to the buoy, anchor, mooring, or other ground tackle. If the owner or any lienholder is known, the commission shall also mail a notice to the owner and the lienholder.

(2) ~~After giving 30 days' notice the expiration of the 30 days' notice period as provided in paragraph (1), the commission may permit a remove the vessel, boat, raft, or other similar watercraft or a buoy, anchor, mooring, or other ground tackle or allow it to remain in place for an additional 30 days and, if they have not been removed, then dispose of them until disposed of as provided in Section 6302.3.~~

~~(e) Upon request of the owner and after payment of the costs of removal and storage, the commission shall return to the owner a vessel, boat, raft, or other similar watercraft or a buoy, anchor, mooring, or other ground tackle removed under this section.~~

~~(d)~~
(c) Pursuant to Section 6302.3, the commission may dispose of a vessel, boat, raft, or other similar watercraft or a buoy, anchor, mooring, or other ground tackle *that is subject to being removed* under this section that remains unclaimed 30 days after ~~removal~~ notice.

~~(d) Upon request of the owner and after payment of the costs of removal and storage, the commission shall return to the owner a vessel, boat, raft, or other similar watercraft or a buoy, anchor, mooring, or other ground tackle removed under this section.~~

(e) The commission may recover costs incurred in removal actions undertaken pursuant to this section through appropriate action in the courts of this state.

(f) For purposes of this section, the following definitions apply:
(1) "Appropriate action" means any cause of action available at law or in equity.

(2) "Commission" includes the staff or agents of the commission or other federal, state, or local agencies operating in concert with or under the direction of the commission.

1 SEC. 2. Section 6302.2 is added to the Public Resources Code,
2 to read:

3 6302.2. (a) A hulk, derelict, wreck, or parts of a ship, vessel,
4 or other watercraft, sunk, beached, grounded, or floating and
5 allowed to remain in an unseaworthy or dilapidated condition in
6 areas under the commission's jurisdiction for a period longer than
7 30 days without its consent is abandoned property.

8 (b) Pursuant to Section 6302.3, the commission may take title
9 to abandoned property described in subdivision (a) for the sole
10 purpose of abatement, and without satisfying any lien on the
11 property, may cause the property to be sold, destroyed, or otherwise
12 disposed of in any manner it determines is expedient or convenient.
13 Title to property transferred by the commission by sale or otherwise
14 to third parties shall be clear of any lien or encumbrance.

15 (c) Prior to making a disposition of abandoned property pursuant
16 to Section 6302.3, the commission shall use reasonable means to
17 identify and locate the owner and any lienholder. If the owner is
18 located, the commission shall give the owner written notice to
19 remove the property by a date certain at least 15 days from the
20 date of the notice. Notice to the owner to remove the property shall
21 also be posted on the property, if practicable, in a clearly visible
22 place. If the owner cannot be located or the owner fails to respond
23 to the mailed or posted notice or fails to remove the property within
24 the time provided or extended, the commission may direct
25 disposition of the property pursuant to Section 6302.3.

26 (d) The commission's cost of disposing of abandoned property,
27 including staff time and legal and attorney's fees, may be recovered
28 by appropriate action in any court in which an action may be
29 properly brought or by use of any available administrative remedy.
30 If the property is sold, the commission may recover its costs from
31 any proceeds of the sale and any additional funds received shall
32 be deposited into the General Fund.

33 SEC. 3. Section 6302.3 is added to the Public Resources Code,
34 to read:

35 6302.3. (a) The commission may direct disposition of property
36 ~~abandoned or removed~~ and subject to disposal pursuant to Section
37 6302.1 or 6302.2 at a properly noticed commission meeting. The
38 commission shall use reasonable means to identify and locate the
39 owner and any lienholder of property that may be disposed of at
40 that hearing.

1 (b) Notice of that meeting shall be given to a known owner and
2 known lienholder, and the known owner, lienholder, or other
3 interested party shall be given the right to appear and be heard
4 prior to disposition of the property.

5 (c) Any action with regard to the disposition of the property as
6 directed by the commission, with the exception of returning the
7 property to the owner, shall be delayed for 30 days after the date
8 of the ~~commission~~ *commission's* determination, to permit response
9 by the owner.

10 ~~(d) This section shall apply only to a disposition of property~~
11 ~~abandoned or removed and subject to disposal pursuant to~~
12 ~~paragraph (3) of subdivision (a) of Section 6302.1, paragraph (2)~~
13 ~~of subdivision (b) of Section 6302.1, subdivision (d) of Section~~
14 ~~6302.1, and subdivision (b) of Section 6302.2.~~

15 SEC. 4. Section 6302.4 is added to the Public Resources Code,
16 to read:

17 6302.4. (a) At the request of the commission, an employee or
18 agent of the commission or a peace officer of the federal or state
19 government or a city, county, or other political subdivision of the
20 state shall have the authority to board a vessel for the purposes of
21 carrying out Section 6302.1, 6302.2, or 6302.3.

22 (b) An action of the commission with regard to any ~~abandoned~~
23 ~~or removed property~~, *property* acquired or disposed of pursuant
24 to Section 6302.1, 6302.2, or 6302.3, is exempt from the
25 requirements of the California Environmental Quality Act (Division
26 13 (commencing with Section 21000)), and from any other law or
27 regulation that governs the acquisition, disposal, or destruction of
28 property by a state agency.